The Cochin Municipal Regulation Amendment Bill.

Mr. Thomas Manjuran *(Government Advocate and Law Officer).*—I move that the Cochin Municipal Regulation Amendment Bill be taken up and passed.

Mr. T. S. Narayana Ayyar *(Secretary to Government).*—I second it.

Motion was put and carried.

The Cochin Debt Conciliation Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri).*—I move that the Cochin Debt Conciliation Bill be taken up and passed.

Mr. T. K. Nayar *(Pazhayannur).*—I second it.

Mr C. S. Viswanatha Ayyar *(Chittur Rural).*—I oppose it. Mr. President, Sir, this is the last occasion on which I take objection to the enactment of such a drastic legislation which tends to be expropriatory in character, and consistent with the attitude that I have taken over this Bill from its very inception I feel that I will be failing in my duty to my constituents and to myself if I let go this last opportunity of entering my emphatic protest against this enactment. This attitude that I am taking, I believe, is the one that any one will take after dispassionately going through all the provisions of the Bill. All my attempts at so modelling this Bill as to make it acceptable to all parties concerned proved futile. Knowing as I do the present constitution of this Hon'ble House, I will not at all be justified in entertaining any hopes about the success of my amendments. But the attitude or, may I say, the change of attitude displayed by the Government over this important legislation is really surprising and even distressing. A Government which vehemently opposed this Bill being referred to a Select Committee, now is found solicitous about the safe passage of this Bill with all its obnoxious provisions. To an impartial observer it will be patent that this Bill has not undergone any material change at the hands of the Select Committee and so this change of front on the part of the Government becomes still more surprising. Long before the Bill was even taken up for consideration the Diwan assured the House that the Government would help the opposition on the Debt Conciliation Bill. I was surprised a bit at hearing the voluntary assurance and was wondering what brought about this transformation on the part of the

LIBRARY ARCHIVES Kerala Legislative Assembly

Government. Even now I have not been able to discern what transpired to effect this frontal change.

This Bill is being passed as a measure to combat the economic depression and the change it has brought in the surroundings of man. When we tell the Government that we are still in the iron grips of depression and ask the Government to give up a share of their dues, the ever diplomatic Diwan Peishkar springs from his seat and says "who says depression! all vain talk, the depression has cleared. The country is flowing with milk and honey. People are opulent and passing through days of plenty. Why ask for remission under such favourable and enviable conditions. Give us our dues and if you can, give us a little more since our family is increasing." But when they are told that the Government should step in and relieve the debtors from the legitimate dues of the creditor, because of depression, then the Government say "You are perfectly right. The country is groaning under the weight of depression and the deluge will set in if the creditors do not give their dues. We have the strength behind us and we will certainly see that the creditors give up their dues and if they do not agree to this we will assist you with all our might in your fight for nonpayment of borrowed money." What surprise—in a change of attitude, how very solicitous about the welfare of the debtor and how the Government appreciate the difficulties of people due to economic depression. One is tempted to ask the Government "What have you done in relieving the sufferers? How have you shown the way to others? Is it by asking the people to pay you more and more? Why enunciate one theory for you and another for the people". This distressing and inconsistent attitude of an impartial Government is really exasperating. Look round and see what other Governments have done and how they have led the way. Recently Gwalior wrote off long standing arrears to Government, set apart a crore of rupees for rural reconstruction; Bhavanagar liquidated the debts by paying the creditors the full liquidated amount out of Government funds. Madras and Mysore have announced some remission on land tax. All have taken up works of utility for giving work to people. Thus they have shown the way to the creditors. Has this Government shown any sympathy towards the people in their ditress? Their sympathy extends to the extent of coercing others to give up their legitimate dues and so long as their dues are not affected they always are sympathetic with us. But when their pockets are the least affected they turn round. Really this double-edged attitude cannot be defined even by Psychologists.

LIBRARY ARCHIVES Kerala Legislative Assembly

Thus the creditor is left to the tender mercies of the debtor supported in his non-payment campaign by all the might of a solicitous Government. The time has come when we have to devise means not through the legislature but by other ways to safeguard our own interests.

My objections to this Bill are many and in spite of the anxiety of this House to see the end of this as early as possible may I crave your indulgence for a while to explain the grounds of my objection. Even the humblest of the humble of His Highness' subjects have got the right to appeal to a Court of Law for the redress of his grievances, be that against another subject or against the Government itself. This right is being taken away and we are asked to submit to the dictates of a committee to the membership of which even an illiterate man is eligible. Is this fair and just? I remember that fascinating writer S. V. V. once saying that for a place either in the cabinet or in the lunatic asylum any one can aspire and if he had then known about this Conciliation Board I may say he would have included this also in the category. Perhaps that is also one of the off-shoots of democracy. As the Bill stands, is there anything to stop the Government from appointing any man in the street to the Committee? It is the basic principle of all measures that for its proper working it should have the co-operation of all people and that it should be framed in such a way as to infuse confidence in all. But when I moved for an amendment seeking to lay down the minimum qualification for membership and thus tie down the hands of the Government the House was not inclined to accept it. Now persons who have invested their all in lending to others will not submit to a board whose membership is thrown open to all. After all what will be the penalty if they don't submit to such a Board? It is only a question of court cost. We will rather forego our Court Costs than submit to an autocratic Board and how is this Bill going to be a success and achieve its objects if the creditors take up this attitude. Let alone the membership qualification. Every act smelling of a law or right is firmly founded and governed by the law of limitation. But curiously enough limitation is something unknown to this enactment. In all courts any petition has to be presented within a prescribed time. But here a restoration petition i. e., a further petition after the rejection of the first, even if it be due to wantonness of the debtor or his default, can be filled before the debt is wiped off since once the debt is wiped off no petition will lie. As explained by me before when moving my amendment to section 7, I pointed out

LIBRARY ARCHIVES Kerala Legislative Assembly

how the creditor can be teased by the debtor through a piece of legislation which claims to be of benefit to either party. The finding of a Board to the membership of which even the man in the street can aspire is above all law. I say that it is really unjust. The subjects have always the inherent right to appeal to the court of law to protect their right but this piece of unwelcome legislation takes away even that right. For the working of this legislation do you think that you will get the co-operation of the creditor class? I am afraid the answer will be an emphatic "No'. This position becomes almost absurd when we see that all kinds of law, for example, procedure, limitation, evidence, etc., will have to play their part in the working of this legislation and yet courts established to interpret and administer those laws are asked not to interfere with the findings of this agust board which seems to be all powerful. Civil Courts will cease to function and an irresponsible board on which can be found every Tom, Dick and Harry will take their place to the detriment of others. Can anyone allow such a piece of legislation to be placed on the Statute Book? No, Sir, no. At worst the creditor will lose his court costs. Never mind. He will at least be saved from the ridiculous position of bowing to a board which fails to infuse confidence in him. If that is going to be the general attitude of the creditor class, the success and future of this Bill is going to be gloomy indeed. These have been some of the glaring defects of the Bill apart from the general expropriatary character of it which have prompted me to oppose the passing of this legislation. I have unburdened my heart and cleared my conscience. Let me finish this speech with the hope that this Bill will not be my funeral oration over this unwanted Bill. Hereafter the creditor has no work in this House over this Bill and he will try outside to combat the mischief likely to be brought about by this measure. The faith of the creditor in the impartiality of the Government is being rudely shaken at the sight of the changes undergone in the attitude of the Government during the various stages of this Bill. That only reminds me of an old English Judge who always said "show me the man and I shall show you the law". Since our Government in so many words say "tell me the nature of relieving the distress and I shall tell you whether there exist distress and depression," the economic depression will result in the mental depression of many a creditor owing to the change in attitude of the Government. Let me send a note of warning to the effect that unless the Government of their own initiative do not make some useful amendments on the lines suggested by me this Bill is not going to serve the purpose for which it has been enacted

LIBRARY ARCHIVES Kerala Legislative Assembly

and when it is asked on a later day as to who is responsible for the collapse of the Bill the finger will unhesitatingly point at the Government and I ask in all seriousness whether you are going to shoulder that responsibility and invite the curses of the debtor for whom you show so much solicitude by "robbing Peter to pay Paul."

* മിസ്റ്റർ കെ. അയ്യപ്പൻ *(Ezhuvas South)*.— സർ, ഈ പ്രസംഗത്തിന്റെ ആവശ്യംതന്നെയില്ല. എങ്കിലും ഒരു കാര്യം ഗവമ്മെൻറിനെ ഓർമപ്പെടുത്തുവാനുണ്ട്. ഇതിനു മുമ്പുതന്നെ കടക്കാരെ രക്ഷിക്കുന്നതിനുവേണ്ടി ഇതുപോലെ ആത്മാർത്ഥമായ ഒരു ശ്രമം ഗവമ്മെൻറിൽനിന്നും ചെയ്യുകയുണ്ടായി. ക്രഡിറേഴ്സിന്റെ ഈവക പരാക്രമങ്ങൾകൊണ്ടു നടക്കാതായിട്ട് ഗവമ്മെൻറുതന്നെ തുടങ്ങിയ ഒരു സ്കീം, ഗവമ്മെൻറു മെമ്പർമാർക്രൂടി അനുകൂലിച്ചുതുടങ്ങിയ ഒരു സ്കീം കടക്കാർക്കു ഗുണകരമായിത്തീരുമെന്ന് അവരെല്ലാം വിശ്വസിച്ചുകൊണ്ടിരുന്ന അവസരത്തിൽ അതിനെ തട്ടിക്കളയുവാൻ ഇതുപോലെയുള്ള പ്രസംഗങ്ങൾക്കും ആ പ്രസംഗങ്ങൾക്ക് ഉത്തരവാദപ്പെട്ട സ്ഥാനങ്ങൾക്കും സാധിച്ചു എന്നു പറയുന്നതുകൊണ്ട് ഇപ്പോൾ ഗവമ്മെൻറു സമ്മതിച്ച് ഈ നിയമസഭ വളരെയെല്ലാം വിട്ടുവീഴ്ചകൾ ചെയ്തു പാസാക്കീട്ടുള്ളതായ ഈ ബില്ലിനും അതുപോലെയുള്ള ഒരു അപകടം വരുത്തു എന്നുള്ള സംഗതി ഗവമ്മെൻറിനെ ഓർമ്മപ്പെടുത്തേണ്ടതുണ്ട്. ഇതിൽ പറഞ്ഞിട്ടുള്ള ന്യായങ്ങൾക്കൊന്നിനും ഉത്തരം പറയേണ്ട ആവശ്യമുണ്ടെന്നു തോന്നുന്നില്ല. ബിൽ ഏതായാലും പാസാകും, പക്ഷെ അതിന് എതിരു പറഞ്ഞില്ലെന്നുവേണ്ട എന്നുള്ള ഉദ്ദേശത്തോടുകൂടിയാണ് ഇപ്പോൾ പ്രസംഗിച്ചിട്ടുള്ളതു്. മറു വഴികളിൽക്കൂടി പോകുമ്പോഴും ഇതിനുമുമ്പുതന്നെ എതിരുണ്ടായിരുന്നുവെന്നു കാണിക്കുവാൻവേണ്ടിയാണ് ഈ എതിരു പറഞ്ഞിട്ടുള്ളതു്. ഇനിയെങ്കിലും ഈവക കാര്യങ്ങൾ ഗവമ്മെൻറു തുറന്നു പറയണം.

'എക്സ് പ്രാപ്രിയേറ്റർ' എന്ന ഒരു പദം ഗവമ്മെൻറ് ഇവിടെ പറയുകയുണ്ടായി. ഈവക സംഗതികളിൽ ഇങ്ങനെയുള്ള പദം എടുത്തു പറയുന്നതുതന്നെ തീരെ അശാസ്ത്രീയമായിട്ടുള്ളതാണ്. ഇതു് എന്തുകൊണ്ടു ഗവമ്മെൻറിനു സമ്മതിച്ചുകൂടാ? ഇപ്പോഴത്തെ സിസ്റ്റത്തിലുള്ള ഗവമ്മെൻറിന് ഇതു് ഒരിക്കലും സമ്മതിക്കാതെ നിവൃത്തിയില്ല. ഗവമ്മെൻറു സമ്മതിച്ചിട്ടില്ലെങ്കിലും കുറെയെല്ലാം ഇപ്പോൾ 'എക്സ് പ്രാപ്രിയേറു'ചെയ്തു നടത്തിക്കൊണ്ടാണു പോകുന്നതു്. ഇതു് അസാധാരണ സന്ദർഭങ്ങളിൽ ചെയ്യാതെ നിവൃത്തിയില്ലെന്നു ഗവമ്മെൻറുതന്നെ പറഞ്ഞിരുന്നുവെങ്കിൽ ഈവക ഭീർഘമായ ഒരു പ്രസംഗത്തിന്റെ ആവശ്യംതന്നെ ഉണ്ടാകുമായിരുന്നില്ല. ഇപ്പോഴും ഗവമ്മെൻറ് കടക്കാരെ നിരാശപ്പെടുത്തുകയാണെങ്കിൽ ചില ഭീഷണികളെല്ലാം ഈ

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly

മെമ്പറെപ്പോലെ ഞങ്ങൾക്കും ഗവമ്മെൻറിനോട പറയുവാനുണ്ട്. ലോകത്തിൽ നടക്കുന്ന ഭീഷണികളിൽ ശക്തിയായി ഭീഷണി നടത്തുന്നവരുടെ എണ്ണം നോക്കിയാണ ചെയ്യേണ്ടത്. ഇതിൽ ക്രെഡിറ്റേഴ്സിൻറയോ ഡെബ്റ്റേഴ്സിൻറയോ ആരുടെ ഭീഷണിയാണ് ഫലിക്കുവാൻ പോകുന്നതെന്ന് ഗവമ്മെൻറ മനസ്സിലാക്കിക്കഴിഞ്ഞിട്ടുണ്ട്. ആയിരംപേർ ഉണ്ടെങ്കിൽ അതിൽ ൻൻൻ പേരുടെ ഭീഷണിയെആണ് നോക്കേണ്ടത്. ആ ൻൻൻ പേരും ഇതുവരെ നടന്നുവന്നതായ വഴിയിൽക്കൂടിയല്ലാതെ പിഴച്ച വഴിയിൽപോകുന്ന ഒറ ഒരുത്തൻറ ഭീഷണിയെക്കുറിച്ച് ഭയപ്പെടേണ്ടതുണ്ടോ എന്ന സംഗതി ഗവമ്മെൻറ ആലോചിക്കേണ്ടതാണ്. ന്യായമായി സങ്കടമുള്ളവരുടെ, ഗവമ്മെൻറ രക്ഷിക്കേണ്ടതായ വലിയൊരു ജനസമൂഹത്തിൻറ ഭീഷണിയെ അളമുട്ടുമ്പോൾ കടിക്കും എന്ന കരുതീട്ടെങ്കിലും ഗവമ്മെൻറ ഭയപ്പെടുകയാണ വേണ്ടത്.

എനിക്ക ബഹുമാനപ്പെട്ട മേമ്പറോട് ഒരു സംഗതി പറയുവാനുണ്ട്. കാലത്തിനനുസരിച്ച് മാറണം. ഈ ഗവമ്മെൻറിനേയും സമ്പ്രദായത്തേയും മാറ്റുന്ന ഒരു വലിയ പ്രവാഹം ഇന്നു ലോകത്തിലുണ്ട്. ആ കാലംവരുമ്പോൾ നിങ്ങളുടെ ബാങ്കുകൾ എവിടെയിരിക്കുവാൻപോകുന്നു; നിങ്ങളുടെ നിയമങ്ങൾ എവിടെയിരിക്കുവാൻ പോകുന്നു! ലോകം മുഴുവൻ പട്ടിണിയും ദാരിദ്ര്യവും തൊഴിലില്ലായ്മയുംകൊണ്ട വിഷമിച്ച് അളമുട്ടി കടിക്കുവാൻപോകുന്ന കാര്യത്തിൽ നിങ്ങൾ കാലത്തിനനുസരിച്ച് മാറുകയും സാധുക്കൾക്ക ചെയ്യേണ്ട രക്ഷ ചെയ്യുകയുമാണവേണ്ടത്. നിങ്ങൾതന്നെ ഭയപ്പെടുന്ന നിങ്ങളുടെ നാശത്തെ വലിച്ചുവക്കുവാൻ ഗവമ്മെൻറ തയ്യാറില്ല. അതുകൊണ്ട് ഇപ്പോഴത്തെ സ്ഥിതിഗതികൾ കഴിയുന്നതും അനുസരിച്ച വേണ്ടത ഗവമ്മെൻറ ചെയ്യുകയാണ വേണ്ടത്. ഈ സംഗതിയിൽ കക്ഷികളെ വർദ്ധിപ്പിക്കണമെന്നാണോ നിങ്ങൾ പറയുന്നത്? രണ്ടുകക്ഷികളെ പാടില്ല, ഒരു കക്ഷിയേ പാടുള്ളൂവെന്നാണ് എൻറ അഭിപ്രായം.

Mr. T. S. Narayana Ayyar (*Secretary to Government*).—I wish to say a word in explanation of the attitude of Government. It is clear as well as candid. I explained the attitude of Government towards this Bill at the time of its first introduction. I then said:—" Government are not opposed to the idea of conciliation boards. At the same time there are serious difficulties in accepting this Bill in the form in which it is now brought". Further on, I stated "I must not omit to mention that a Bill has recently been passed by the Madras Legislative Council. That Bill was introduced in 1933 and it was pending before the Council for more than two years. In the meanwhile a comprehensive survey of agricultural indebtedness in the Madras Presidency was conducted by a Special Officer and it must have been as a result of the data collected in the course of that enquiry that the Bill underwent considerable modifications in the Council. I have not been able to obtain a copy of this Bill in the final stage in which it emerged from the Madras Council. What

LIBRARY ARCHIVES Kerala Legislative Assembly

I wish to say is that it should not be understood that the question of finding some means of bringing together the agriculturist debtor and his creditor has not been engaging the consideration of Government. Should it become necessary, Government will be prepared to examine the Bill passed by the Madras Legislative Council and see whether the conditions of this State would allow of the enactment of a restricted measure like the one which was passed in the Madras Council. It should not be thought that Government are opposed to the principle of conciliation. But there are serious limitations to the enforcement by the State of conciliation between debtor and creditor".

The Bill was then referred to a Select Committee, and it was noticed that the Select Committee had practically adopted the provisions of the Madras Act with only a few variations. In view of the public interest taken in a measure like the one in question and of the progress of similar legislation in other places in India, Government were prepared to try a measure like the one recently passed in Madras and accordingly all such amendments as would bring the Bill exactly on the line of the Madras Act were moved on behalf of Government. The policy of Government was that there must be sufficient safe-guards, that while giving as large a measure of relief to the debtor as is possible under the circumstances, the rights of creditor shall also be reasonably protected. And it should be made possible for Government to set up the machinery for conciliation and enable it to function usefully. Hon'ble Members will remember the controversy over the interpretation of clause 18 of the Bill. The different views expressed during the debate were not so much differences in interpretation as in policy. Government thought that even if there was no settlement, as contemplated in clause 14, the Board must be able to issue a certificate to the honest debtor who makes an offer which appears to the Board to be fair and reasonable. Sufficient safe-guards have, at the same time, been introduced to protect the creditors by insisting on half the number of creditors agreeing to a settlement. Thirdly, the deletion of clause 30 relating to exemption from stamp duty was also pressed by Government as it would obviously be impossible for Government to meet the expenditure on such Boards from other sources. I wish to read a short paragraph from an issue of the "Servant of India", Poona, dated 10th December 1936 at pages 559-561 under the title 'Scaling down Debts', only to show that more enlightened and more responsible opinion elsewhere has taken a different view of the policy of this Government from that of the Hon'ble Member for Chittur.

"The Government of Cochin announced on 27th November an important decision on the Debt Conciliation Bill moved by a private Member

LIBRARY ARCHIVES Kerala Legislative Assembly

in the State Legislative Council. This Bill is almost a replica of the Debt Conciliation Act of the Madras Presidency, which itself is modelled, not on the more recent Punjab and Bengal Acts, but on the earlier one of the Central Provinces. We have now Conciliation Acts in Madras, Bengal, Punjab and the Central Provinces. The latest is the Bengal, Act. "The Bengal Act goes further than the Acts of these three Provinces, in that even if no creditor agrees to the terms offered by the debtor, which in the opinion of the Conciliation Board are fair, the board can give a certificate to the debtor and the penalty provisions come into effect. The Diwan of Cochin as President of the Council announced the intention of his Government to move an amendment which will place the Cochin Bill on all fours with the Bengal Act in this respect."....."The Bengal Act should of all acts in force in British India prove of the greatest help in relieving agriculturists of their indebtedness."

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri).*—Mr. President, Sir, the opposition brought forward by the Hon'ble Member for Chittur does not call for any further remarks than were made by the Hon'ble Member for South Ezhuvas and the Hon'ble Secretary to Government. Although my friend characterised his opposition speech as not the funeral oration on this subject I believe it is even that. Sir, I take this opportunity to thank the Government for the solicitude shown by them to the hard hit agriculturists by suggesting necessary and proper amendments to the Bill to make it as useful as possible to the agricultural debtor. I only wish to make an appeal to the Government that their solicitude be further exemplified by making the necessary rules for the working of Conciliation Boards as early as possible and make the Board work at the earliest possible opportunity.

Motion that the Bill be finallg passed was put and carried.

RESOLUTIONS—(contd.)

22. Retrenchment in the cost of Administration of the State.

Mr. C. R. Iyyunni *(Trichur South).*—*"This Council recommends to the Government to appoint a committee consisting of officials and non-officials to report on the feasibility of effecting retrenchment in the various departments of administration in the State".*

* Sir, it is some years ago that a committee was appointed by the Government with regard to this question. I think it is about ten years since that has been done. Since then our

* Speech not corrected by the Hon'ble Member.

LIBRARY ARCHIVES Kerala Legislative Assembly